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**STATE OF WASHINGTON
DEPARTMENT OF FINANCIAL INSTITUTIONS
CONSUMER SERVICES DIVISION**

IN THE MATTER OF DETERMINING
Whether there has been a violation of the
Mortgage Broker Practices Act of Washington by:

ROSEMARY D. MURPHY, dba MIRACLE
MORTGAGE & FINANCE,

Respondent.

NO. C-04-123-04-SC01

STATEMENT OF CHARGES and
NOTICE OF INTENTION TO ENTER
AN ORDER TO DENY LICENSE
APPLICATION, IMPOSE FINE, ORDER
RESTITUTION, PROHIBIT FROM INDUSTRY,
AND COLLECT INVESTIGATION FEE

INTRODUCTION

Pursuant to RCW 19.146.220 and RCW 19.146.223, the Director of the Department of Financial Institutions of the State of Washington (Director) is responsible for the administration of chapter 19.146 RCW, the Mortgage Broker Practices Act (Act). After having conducted an investigation pursuant to RCW 19.146.210 and RCW 19.146.235, and based upon the facts available as of September 22, 2005, the Director institutes this proceeding and finds as follows:

I. FACTUAL ALLEGATIONS

1.1 Respondent: Rosemary D. Murphy, dba Miracle Mortgage & Finance (Respondent) submitted an application as a sole proprietorship to the Department of Financial Institutions of the State of Washington (Department) for a license to conduct business as a Mortgage Broker at the following location:

1208 Chambers
Steilacoom, WA 98388

The application was received by the Department on February 11, 2004.

1.2 False Statements on License Application:

A. Respondent's Business Structure: By Respondent's signed license application, dated January 26, 2004 and received by the Department February 11, 2004, Respondent swears and affirms that Miracle

1 Mortgage & Finance is a Sole Proprietorship. However, on January 23, 2004, Respondent and Robert M.
2 Warnock (Warnock) signed a contract to operate Miracle Mortgage & Finance as a partnership. The contract
3 states that Respondent and Warnock are each fifty percent partners "in all aspects which includes income,
4 expenses and all costs." The contract is notarized by Lisa Hibbard. Respondent's association with Warnock is
5 discussed further in paragraph 1.12.

6 **B. Respondent's Employment History and Experience:** As part of her application materials,
7 Respondent provided a resume and two letters of recommendation from alleged former employers in an attempt
8 to produce experience adequate to support her designation as Designated Broker. Respondent's resume asserts
9 she worked as a loan officer for Arista Mortgage Company (Arista) from April 1993 through February 1998,
10 and as a loan officer for Allstate Financial Services, Inc. (Allstate) from February 1998 through October 2003.
11 During the respective periods of Respondent's purported employment, Arista and Allstate were each licensed
12 by the Department to conduct the business of a mortgage broker. Respondent submitted a letter of
13 recommendation dated February 27, 1998 and purportedly signed by Nathan Warnock as President of Arista.
14 Respondent also submitted a letter of recommendation dated September 30, 2003 and purportedly signed by
15 Robert M. Warnock as President of Allstate. In addition to failing to satisfy experience requirements, as
16 discussed in paragraph 1.3C, the Department noted the following related to the information submitted:

- 17 • The Washington State Employment Securities Department has no record of Respondent
18 receiving wages as an employee of either Arista or Allstate between January 1, 1993 and
19 September 30, 2003. The Department has no record of either Arista or Allstate ever having an
20 independent contractor's agreement on file for Respondent, as required for an independent
21 contractor agreement to be valid under RCW 19.146.200(1).
- 22 • The letterhead of the Arista letter dated February 27, 1998 lists Arista's address as 3435 Martin
23 Way S, Ste B, Olympia, WA 98506. Prior to December 2000, the Department has no evidence
24 that Arista operated at 3435 Martin Way S, Ste B, Olympia, WA 98506. On December 19,
25 2000, the Department received a Mortgage Broker Status Change Application from Arista,

signed by Nathan Warnock as Owner and dated December 12, 2000, applying for an address change from 3901 S. Fife St, Ste 101 in Tacoma Washington to 3435 Martin Way S, Ste B, Olympia, WA 98506.

- In or around May 2004, Respondent became an employee of ComUnity Lending, Inc., dba Crystal Clear Mortgage (Crystal Clear Mortgage), a consumer lender licensed by the Department. Respondent completed an employment application for Crystal Clear Mortgage, and signed under the statement "I certify that all of the information that I have provided on this application is true and accurate." On the "Record of Previous Employment" section of the application, Respondent listed employment with Allstate from September 2001 through September 2003. Respondent did not indicate any employment experience with Arista, but did include employment unrelated to the mortgage industry for the period December 1978 through September 2003.
- In or around September 2004, Respondent became an independent contractor for TaxPro, Inc., dba Ballard Mortgage Company (TaxPro), a mortgage broker licensed by the Department. Respondent completed an employment application for TaxPro, and signed under the statement "I attest and affirm that all of the information provided above is true and correct." On the "Employment History" section of the application, Respondent did not indicate any employment experience with Arista or Allstate, but did include employment unrelated to the mortgage industry for the period September 1996 through December 2003.

1.3 Incomplete Application: Respondent's application is inadequate or incomplete in the following areas:

- A. Respondent has failed to provide required ownership and affiliate information, as described on the application form under Addendum A-Ownership.
- B. Respondent has applied to the Department to do business under the name "Miracle Mortgage and Finance." Respondent's Washington State Master Business License to do business under the name "Miracle

1 Mortgage Financial” fails to satisfy the requirements described on the application form under Addendum H-
2 Master Business License.

3 C. Respondent has provided a resume and letters of recommendation from alleged former
4 employers, as discussed in paragraph 1.2B. This information fails to satisfy the requirements for acceptable
5 support of experience, as described on the application form under Addendum K-Designated Broker.

6 D. Respondent has provided a completed Certificate of Compliance and Authorization to Examine
7 Trust Account, which states Respondent has established a trust account in compliance with the Act for receipt
8 of trust monies. Respondent has also provided a completed Alternative Certificate of Compliance, which states
9 Respondent will not accept any trust monies from borrowers. This conflicting information fails to satisfy the
10 requirements described on the application form under Addendum M-Trust Accounting.

11 E. The account number for the trust account discussed in paragraph 1.3D is the same as the
12 account number for the account assigned to the Department as a surety alternative as discussed in paragraph
13 1.3H. This conflicting information fails to satisfy the requirements described on the application form under
14 Addendum M-Trust Accounting and Addendum S-Surety Instrument.

15 F. While Respondent applied for a license as a Sole Proprietorship, it appears that Miracle
16 Mortgage & Finance was in fact a partnership, as discussed in paragraph 1.2A. Respondent has failed to
17 provide a completed Mortgage Broker Applicant Individual Background Form (IBF) for all partners, as
18 instructed at the top of the IBF under the heading “Partnership.” If Miracle Mortgage & Finance had in fact
19 been a Sole Proprietorship, Respondent has failed to provide a completed IBF for her spouse, as instructed at
20 the top of the IBF under the heading “Sole Proprietorship.” Respondent’s failure to provide this information
21 fails to satisfy the requirements described on the application form under Addendum R-Individual Information.

22 G. Respondent has provided one (1) fingerprint card in the “Criminal” format. This information
23 fails to satisfy the requirement of two (2) fingerprint cards in the “FBI applicant” format, as described on the
24 application form under Addendum R-Individual Information. In addition, Respondent has failed to provide two

(2) fingerprint cards in the "FBI applicant" format and a personal credit report for Warnock as managing (50%) partner, as described on the application form under Addendum R-Individual Information.

H. Respondent has provided a surety bond in the amount of \$20,000.00, and an Assignment of Account or Time Deposit to the Department in the amount of \$3,500.00 as a surety alternative as discussed in paragraph 1.3E. This conflicting information fails to satisfy the requirements described on the application form under Addendum S-Surety Instrument. In addition, if the assigned account is meant as a surety alternative, the amount fails to satisfy the requirements described on the application form under Addendum S-Surety Instrument.

I. Respondent has provided a surety bond listing the principal as "Miracle Mortgage & Finance." The required principal on the bond is "Rosemary D. Murphy dba: Miracle Mortgage & Finance." The information provided fails to satisfy the requirements described on the application form under Addendum S-Surety Instrument.

1.4 Unlicensed Locations: Respondent is known to have conducted the business of a mortgage broker from the following locations:

- A. 1720 S 72nd Suite 103, Tacoma, WA 98408
- B. 1019 Pacific Ave Suite 1111, Tacoma WA 98402

To date, the Department has not issued a license to any person to conduct the business of a mortgage broker from either of these locations.

1.5 Unlicensed Activity: On or around December 17, 2003, Respondent became an independent contractor with America One Finance, Inc. (America One). America One is currently licensed by the Department to conduct the business of a mortgage broker, however to date, America One has never applied for, or received, licenses from the Department to conduct the business of a mortgage broker at the locations discussed in paragraph 1.4. Between January 1, 2004 and May 31, 2004, Respondent assisted at least twelve (12) borrowers in applying to obtain residential mortgage loans on property located in the State of Washington from the unlicensed locations discussed in paragraph 1.4. Respondent assisted at least five (5) of these

borrowers in obtaining residential mortgage loans. The borrowers involved in these residential mortgage loans paid fees to Respondent and America One totaling \$39,758.95 as follows:

	<u>America One</u>	<u>Respondent</u>
Borrower 1	\$ 7,375.20	\$ 600.00
Borrower 2	\$ 7,643.75	\$ 1,600.00
Borrower 3		\$11,340.00
Borrower 4	\$ 5,300.00	
Borrower 5	<u>\$ 5,900.00</u>	
Total	\$26,218.95	<u>\$13,540.00</u>

At the closing of Borrower 3's residential mortgage loan, the settlement agent (Ticor Title Company located in Renton, WA) issued check number 200007334, dated April 9, 2004, in the amount of \$11,390.00 to "America One Finance 1720 72nd Street, #103 Tacoma WA 98408." Ticor Title Company records indicate Respondent picked this check up in person. According to bank records, Respondent personally endorsed this check and deposited it into an operating account under her control. Respondent did not have permission from America One to negotiate this check. America One terminated its Independent Contractor agreement with Respondent due, in part, to Respondent depositing the check into her own account.

1.6 Failure of Respondent to Maintain Funds From Borrower for Payment of Third-Party Providers in Trust: Neither Respondent nor America One has received authorization from the Department to accept trust funds. In connection with the residential mortgage loans and borrowers discussed in paragraph 1.5, and in addition to the fees discussed therein, Respondent and America One received \$1,368.00 at the closing of the residential mortgage loans below for payment of third-party provider services as follows:

Borrower 1	\$ 50.00 (Credit Report Fee)
Borrower 2	\$ 450.00 (Appraisal Fee and Credit Report Fee)
Borrower 3	\$ 450.00 (Appraisal Fee and Credit Report Fee)
Borrower 5	<u>\$ 418.00 (Appraisal Fee and Credit Report Fee)</u>
Total	\$1,368.00

Respondent and America One deposited these funds into operating accounts under their control, thereby commingling trust funds with operating funds.

1 **1.7 Conversion of Funds From Borrowers for Payment of Third-Party Providers Held in Trust:**

2 A. On or around February 6, 2004, Borrower 2 wrote a \$400.00 check to Dave Ruddock, CIC
3 Appraisals, for the appraisal related to their residential mortgage loan. At the closing of Borrower 2's
4 residential mortgage loan, the settlement agent (Ticor Title Company located in Tacoma, WA) disbursed
5 \$400.00 to Respondent for the appraisal fee related to the residential mortgage loan and Respondent deposited
6 these funds into an operating account under her control, as discussed in paragraph 1.6. When Respondent
7 received this \$400.00 in trust funds at closing, commingled this \$400.00 in trust funds with operating funds, and
8 failed to refund this \$400.00 in trust funds to Borrower 2, she effectively converted this \$400.00 in trust funds
9 to a use other than originally intended.

10 B. On or around January 30, 2004, Borrower 3 wrote a \$400.00 check to Dave Ruddock, CIC
11 Appraisals, for the appraisal related to their residential mortgage loan. At the closing of Borrower 3's
12 residential mortgage loan, the settlement agent (Ticor Title Company located in Renton, WA) issued check
13 number 200007334 to America One, however Respondent personally endorsed this check into an operating
14 account under her control as discussed in paragraph 1.5. This check included \$400.00 for the appraisal fee
15 related to the residential mortgage loan, as discussed in paragraph 1.6. When Respondent received this \$400.00
16 in trust funds at closing, commingled this \$400.00 in trust funds with operating funds, and failed to refund this
17 \$400.00 in trust funds to Borrower 3, she effectively converted this \$400.00 in trust funds to a use other than
18 originally intended.

19 **1.8 Failure to Accurately and/or Timely Disclose Residential Mortgage Loan Fees:** In at least two (2)
20 of the residential mortgage loans discussed in paragraph 1.5, Respondent failed to provide the borrowers with
21 full written disclosures, containing an itemization and explanation of all fees and costs that the borrowers were
22 required to pay in connection with obtaining a residential mortgage loan, and specifying the fee or fees which
23 inured to the benefit of Respondent and/or America One, within three days following receipt of a loan
24 application or any moneys from the borrowers.

1 **1.9 Collecting Fees in Excess of the Fees Disclosed:** In at least two (2) of the residential mortgage loans
2 discussed in paragraph 1.5, Respondent charged fees inuring to the benefit of Respondent and/or America One
3 in excess of the fees disclosed on the initial written disclosures. In these instances, the need to charge these fees
4 was reasonably foreseeable by Respondent at the time the initial written disclosures were provided to the
5 borrowers, and/or Respondent failed to provide the borrowers, no less than three business days prior to the
6 signing of the loan closing documents, a clear written explanation of the fees and the reason for charging fees
7 exceeding those which were previously disclosed.

8 **1.10 Failure to Fully Respond to Directive:**

9 A. **Requirement:** On August 3, 2004, the Department issued Directive to Produce Records C-04-
10 123-04-SD13 (Directive) to Respondent. The Directive required Respondent to provide, among other things,
11 any and all records, documents or information regarding any residential mortgage loans she had originated on
12 property located in the State of Washington, including any residential mortgage loans made with her own funds,
13 between December 17, 2003 and August 3, 2004, including but not limited to Borrowers 1 and 3 (discussed in
14 paragraph 1.5) and Borrowers 6, 7 and 8. In subsequent telephone conversations on August 6, 2004 and August
15 10, 2004, Department personnel explained to Respondent that the Directive included a requirement for her to
16 produce any and all documents related to any residential mortgage loans funded with Respondent's personal
17 funds and secured by Deeds of Trust in favor of Respondent during the time period indicated, including but not
18 limited to residential mortgage loan transactions involving the borrowers listed above, and a written explanation
19 of such transactions. In those conversations, a residential mortgage loan involving a Deed of Trust in favor of
20 Respondent purportedly signed by Borrower 1 on or around January 29, 2004, and a residential mortgage loan
21 involving a Deed of Trust in favor of Respondent purportedly signed by Borrower 1 on or around April 9, 2004,
22 were discussed and Department personnel again explained that all such residential mortgage loan transactions
23 between December 17, 2003 and August 3, 2004 were subject to the Directive requirement.

1 B. **Response:** On August 11, 2004, Respondent provided documents in response to the Directive.
2 These documents included:

- 3 • a copy of a Deed of Trust in favor of Respondent purportedly signed by Borrower 1 on or
4 around January 29, 2004;
- 5 • a written explanation of that transaction including a statement that Respondent gave Borrower 1
6 \$26,000.00 at some point prior to the closing of the March 2004 residential mortgage loan
7 discussed in paragraph 1.11A, and that Respondent gave Borrower 1 an additional \$4,000.00 in
8 cash on the day the settlement agent (Ticor Title located in Tacoma WA) disbursed \$30,000.00
9 to Respondent from the proceeds of the March 2004 residential mortgage loan discussed in
10 paragraph 1.11A in satisfaction of the Deed of Trust recorded in favor of Respondent;
- 11 • a written explanation of a transaction involving Borrower 6 which closed in or around October
12 of 2003; and
- 13 • a written explanation of a residential mortgage loan transaction involving Borrower 7 which
14 Respondent claims to have originated but not closed.

15 To date, Respondent has provided no further documents in response to the Directive.

16 C. **Failure to Fully Respond:** During the period from December 17, 2003 through August 3,
17 2004, Respondent recorded Deeds of Trust in her favor in Pierce County involving the following borrowers:

- 18 • Borrower 1 (\$30,000.00, dated January 29, 2004 and recorded February 11, 2004, and
19 \$18,000.00, dated April 9, 2004 and recorded April 12, 2004);
- 20 • Borrower 7 (\$6,000.00, dated March 31, 2004 and recorded April 12, 2004); and
- 21 • Borrower 8 (\$4,200.00, dated April 2, 2004 and recorded April 12, 2004).

22 In addition, documents contained in a loan file provided by Respondent in response to the directive indicate
23 that, on or around April 9, 2004, Respondent received \$7,000.00 at the closing of a residential mortgage loan
24 involving Borrower 3 pursuant to a Deed of Trust in favor of Respondent purportedly signed by Borrower 3 on
25 or around January 30, 2004. To date, Respondent has provided no documents or written explanation regarding
the Deeds of Trust in her favor involving Borrowers 3, 7 and 8, or the Deed of Trust in her favor involving
Borrower 1 recorded April 12, 2004. Further, to date, Respondent has provided no documents supporting the
\$30,000.00 in disbursements she asserts were made to Borrower 1 between January 2004 and March 2004.

1 **1.11 Residential Mortgage Loans Using Personal Funds:**

2 A. On January 14, 2004, Respondent ran credit reports on Borrower 1. On February 11, 2004, a
3 \$30,000.00 Deed of Trust on Borrower 1's residence, purportedly signed by Borrower 1 on or around January
4 29, 2004 and notarized by Lisa Hibbard, was recorded in favor of Respondent in Pierce County as discussed in
5 paragraph 1.10C. Under the terms on the face of the Deed of Trust, Borrower 1 was to pay Respondent
6 \$30,000.00 on or before March 1, 2004. On or around March 22, 2004, Borrower 1 closed a \$157,500.00
7 residential mortgage loan originated by Respondent, as discussed in paragraph 1.5. At closing, the settlement
8 agent (Ticor Title Company located in Tacoma, Washington) disbursed \$30,000.00 of the loan proceeds to
9 Respondent in satisfaction of the Deed of Trust. On August 6, 2004 and August 10, 2004, Respondent told
10 Department personnel that, in regards to the transaction underlying the January 29, 2004 Deed of Trust:

- 11 • Respondent provided Borrower 1 with no disclosures; and
- 12 • there were no other documents, such as a promissory note, related to the transaction.

13 During the August 10, 2004 conversation with Department personnel and in Respondent's written response to
14 the directive discussed in paragraph 1.10B, Respondent asserted:

- 15 • Respondent personally loaned Borrower 1 \$30,000.00; and
- 16 • Respondent secured this loan by recording a \$30,000.00 Deed of Trust on Borrower 1's
17 residence in favor of Respondent; and
- 18 • Respondent funded this personal loan by giving Borrower 1 \$26,000.00 in cash on or around
19 January 29, 2004 and \$4,000.00 in cash on or around March 22, 2004 (the date the \$157,500
20 residential mortgage loan closed); and
- 21 • Respondent collected no interest or fees on this personal loan.

22 As discussed in paragraph 1.10C, Respondent has provided no documents supporting the \$30,000.00 of asserted
23 cash disbursements. According to bank records, Respondent made a \$25,000.00 cash withdrawal on January
24 29, 2004, and deposited the \$30,000.00 proceeds from the Deed of Trust on March 23, 2004. This transaction
25 appears to amount to a fifty-four (54) day loan of \$25,000.00, with a \$5,000.00 finance charge. The annualized

1 rate of interest for this finance charge is approximately 135%, well in excess of the usury limit for the State of
2 Washington.¹

3 B. On April 12, 2004, an \$18,000.00 Deed of Trust on Borrower 1's residence, purportedly signed
4 by Borrower 1 on or around April 9, 2004 and notarized by Carol Duval, was recorded in favor of Respondent
5 in Pierce County as discussed in paragraph 1.10C. The Deed of Trust states that it is for the purpose of securing
6 performance of each agreement of Respondent and Borrower 1 incorporated by reference or contained therein,
7 and to secure the payment of \$18,000.00 with interest thereon according to the terms of a promissory note of the
8 same date. From at least July 2004 to September 2004, Respondent attempted to originate another residential
9 mortgage loan to refinance the mortgage she had just originated for Borrower 1, discussed in paragraphs 1.5 and
10 1.11A, even though Borrower 1's existing mortgage included a substantial prepayment penalty. According to
11 bank records, Respondent cashed a \$1,000.00 check from Borrower 1 on around June 1, 2004 and another
12 \$1,000.00 check from Borrower 1 on or around October 8, 2004. These cashed checks were dated May 31,
13 2004 and June 30, 2004, respectively, and the memo line on each check read "10% interest/mo." On or around
14 October 29, 2004, Borrower 1 closed a \$183,000.00 residential mortgage loan directly with their existing
15 lender. At closing, the settlement agent (Nations Title Agency, Inc., located in Prairie Village, KS) disbursed
16 \$16,000.00 of the loan proceeds to Respondent as payment of the Deed of Trust. As discussed in paragraph
17 1.10B, Respondent mentioned filing this Deed of Trust during a conversation with Department personnel on
18 August 10, 2004, yet to date she has provided the Department with no documents or written explanation related
19 to this transaction. This transaction appears to amount to a two hundred three (203) day loan of \$10,000.00,
20 with at least an \$8,000.00 finance charge. The annualized rate of interest for this finance charge is
21 approximately 144%, well in excess of the usury limit for the State of Washington.²

22 C. On January 22, 2004 and January 23, 2004, Respondent ran a credit report on Borrower 3. On
23 or around January 30, 2004, Borrower 3 purportedly signed a Deed of Trust on their residence in the amount of
24

25 ¹ Pursuant to RCW 19.52.020(1), the highest interest rate allowable at all times relevant to these Factual Allegations was
twelve percent (12.00%) per annum.

² See Footnote 1.

1 \$7,000.00 as discussed in paragraph 1.10C. This Deed of Trust was not notarized. Under the terms on the face
2 of the Deed of Trust, Borrower was to pay Respondent \$7,000.00 on or before April 1, 2004. On or around
3 April 9, 2004, Borrower 3 closed a \$233,750.00 residential mortgage loan originated by Respondent, as
4 discussed in paragraph 1.5. At closing, the settlement agent (Ticor Title Company located in Renton,
5 Washington) disbursed \$7,000.00 of the loan proceeds to Respondent as payment of the Deed of Trust. As
6 discussed in paragraph 1.10C, Respondent has provided no documents or written explanation regarding the
7 Borrower 3 Deed of Trust in Respondent's favor.

8 D. On April 12, 2004, a \$6,000.00 Deed of Trust on Borrower 7's residence, purportedly signed
9 by Borrower 7 on or around April 1, 2004 and notarized by Lisa Hibbard, was recorded in favor of Respondent
10 in Pierce County as discussed in paragraph 1.10C. The Deed of Trust states that it is for the purpose of securing
11 performance of each agreement of Respondent and Borrower 7 incorporated by reference or contained therein,
12 and to secure the payment of \$6,000.00 with interest thereon according to the terms of a promissory note of the
13 same date. In Respondent's written response to the Directive discussed in paragraph 1.10B, Respondent states
14 that she originated a residential mortgage loan for Borrower 7 but she did not close it and is not aware who
15 closed it. On or around June 29, 2004, Borrower 7 sold her residence. At closing, the settlement agent (Ticor
16 Title Company located in Tacoma, Washington) disbursed \$6,454.00 of the seller's proceeds to Respondent as
17 payment of the Deed of Trust. As discussed in paragraph 1.10C, Respondent has provided no documents
18 related to the Borrower 7 Deed of Trust recorded in Respondent's favor on April 12, 2004. This transaction
19 appears to amount to a ninety-one (91) day loan of \$6,000.00 at most, with at least a \$454.00 finance charge.
20 The annualized rate of interest for this finance charge is approximately 30%, well in excess of the usury limit of
21 the State of Washington.³

22 E. On February 13, 2004, Respondent ran a credit report on Borrower 8. On April 12, 2004, a
23 \$4,200.00 Deed of Trust on Borrower 8's residence, purportedly signed by Borrower 8 on or around April 2,
24 2004 and notarized by Melody Alvestad, was recorded in favor of Respondent in Pierce County as discussed in
25

³ See Footnote 1.

1 paragraph 1.10C. The Deed of Trust states that it is for the purpose of securing performance of each agreement
2 of Respondent and Borrower 8 incorporated by reference or contained therein, and to secure the payment of
3 \$4,200.00 with interest thereon according to the terms of a promissory note of the same date. According to
4 bank records, Respondent wrote a \$3,000.00 check to Borrower 8 dated April 2, 2004. On or around March 28,
5 2005, Borrower 8 closed a \$204,000.00 residential mortgage loan on her residence. At closing, the settlement
6 agent (Schreiner Law Office located in Tacoma, Washington) disbursed \$400.00 of the loan proceeds to
7 Respondent as payment of the Deed of Trust. As discussed in paragraph 1.10C, Respondent has provided no
8 documents or written explanation regarding the Borrower 8 Deed of Trust recorded in Respondent's favor on
April 12, 2004.

9 **1.12 Respondent's Association with Robert M. Warnock and Allstate Financial Services, Inc.:** In the
10 course of the investigation of Respondent's license application, the Department compiled the following
11 information about Respondent's association with Robert M. Warnock (Warnock) and Allstate Financial
12 Services, Inc. (Allstate):

13 A. On August 28, 2003, the Department entered a Final Decision and Order in Case No. 2001-
14 124-C01 against Allstate and Warnock.⁴ The terms of this order included:

- 15 1. Revocation of Allstate's mortgage broker license for a period of five (5) years; and
- 16 2. Removal of Warnock as Allstate's Designated Broker; and
- 17 3. Prohibition of Warnock from participation as an officer, principal, employee, or loan
18 originator in the conduct of the affairs of any licensed mortgage broker or mortgage
19 broker subject to licensing under the Mortgage Broker Practices Act (RCW 19.146),
20 for a period of five (5) years; and

21
22
23 ⁴ On September 29, 2003, Allstate and Warnock appealed this order to the Pierce County Superior Court (Cause No. 03-2-
11746-9), however, on October 17, 2003, Superior Court Judge Thomas J. Felnagle denied Allstate and Warnock's motion
24 to stay the Final Order pending their appeal.

1 4. Imposition of a fine in the amount of Fifty Thousand Dollars (\$50,000.00) on
2 Allstate and/or Warnock as a penalty for violating multiple sections of the Mortgage
3 Broker Practices Act (RCW 19.146); and

4 5. Restitution of \$5,671.00 by Allstate and/or Warnock to three (3) injured borrowers.

5 B. The address listed in paragraph 1.4A is also the address of the Law Offices of Gregory Wilson.
6 Gregory Wilson represented Warnock in the administrative action discussed in paragraph 1.12A. In addition,
7 from October 2003 through December 2003, Warnock is believed to have been originating residential mortgage
8 loans from the address listed in paragraph 1.4A, including a residential mortgage loan obtained by the buyer of
9 Respondent's residence, which closed on or around October 23, 2003.

10 C. On January 23, 2004, Respondent and Warnock signed a contract to operate Miracle Mortgage
11 & Finance as a partnership, as discussed in paragraph 1.2A.

12 D. As part of her mortgage broker license application, Respondent provided a resume and letter of
13 recommendation, signed by Warnock, asserting she was a loan officer for Warnock and Allstate from February
14 1998 through October 2003, as discussed in paragraph 1.2B.

15 E. Between October 1, 2003 and February 22, 2004, Allstate's credit reporting account with
16 Novastar Mortgage Inc. (Novastar), a consumer lender licensed by the Department, was used to pull credit
17 reports on twenty-four (24) individuals. Included in these credit reports was the personal credit report
18 Respondent provided to the Department as part of her license application. Respondent took residential loan
19 applications from at least six (6) of these individuals on or near the date their respective credit reports were
20 pulled. Warnock took a residential loan application from at least one (1) of these individuals on or near the date
21 the individual's credit report was pulled. Respondent personally entered into at least three (3) loans, each
22 secured by a Deed of Trust in favor of Respondent, with at least five (5) of these individuals on or near the date
23 their respective credit reports were pulled.

24 F. Documents related to the origination of the residential mortgage loans for Borrowers 1, 2 and 3,
25 discussed in paragraph 1.5, were initially received by Novastar on or around February 17, 2004. Novastar

1 initially treated these loans as though they were submitted by Allstate. The Novastar file jackets of each of
2 these loans list, handwritten, the broker name as "Allstate Financial Services," the contact as "Robert" or
3 "Robert Warnock" and the Novastar account executive as "Alexander." Other documents in the Novastar loan
4 files indicate that the account executive was Alexander Warnock, a relative of Robert Warnock. The initial loan
5 applications for these loans were signed by Respondent as interviewer. The "employer" boxes on these
6 applications, which would indicate which broker the interviewer was working for, were whited out. The loan
7 files compiled by Novastar, America One, and the settlement agents for these loans contain various documents
8 submitted by Respondent which link Allstate and Warnock to the loans.

9 G. In interviews conducted by Department personnel, at least two borrowers have stated that they
10 met with Respondent and Warnock at the address listed in paragraph 1.4A regarding their residential mortgage
11 loans, and at least three borrowers have stated that they met with Respondent and Warnock at the address listed
12 in paragraph 1.4B regarding their residential mortgage loans.

13 H. On or around March 15, 2004, Respondent entered into a commercial lease for four hundred
14 thirty-nine (439) square feet of office space at the address listed in paragraph 1.4B. In March 2004, Respondent
15 signed for and received keys to the office for herself and for Warnock. In April 2004, Respondent introduced
16 Warnock to Simon Johnson, LLC (property management) personnel, telling them Warnock would be working
17 with Respondent in her leased office space. During April and May of 2004, Simon Johnson, LLC personnel
18 observed Warnock in Respondent's leased office space on a daily basis. On or around May 10, 2004, America
19 One and Simon Johnson, LLC personnel received a copy of a letter dated the same date. The letter is addressed
20 to Warnock and appears to be signed by Respondent. The letter includes the following:

21 "This letter is to formally advise you that the working relationship between
22 yourself [Warnock] and myself [Respondent] and Miracle Mortgage & Finance is
23 terminated immediately. The documented [sic] that we signed on January 23,
24 2004 is hereby voided."

1 After receipt of the letter, Simon Johnson, LLC personnel recall seeing Warnock in the office space leased by
2 Respondent on at least three (3) occasions.

3 I. On or around April 12, 2004, Respondent wrote a \$4,000.00 check to "Robert Warnock or
4 Allstate" from an account under her control at Wells Fargo Bank, NA.

5 **1.13 On-Going Investigation:** The Department's investigation into the alleged violations of the Act by
6 Respondent continues to date.

7 **II. GROUNDS FOR ENTRY OF ORDER**

8 **2.1 Definition of Mortgage Broker:** Pursuant to RCW 19.146.010(12) and WAC 208-660-010(29),
9 "Mortgage Broker" means any person who, for compensation or gain, or in the expectation of compensation or
10 gain (a) makes a residential mortgage loan or assists a person in obtaining or applying to obtain a residential
11 mortgage loan or (b) holds himself or herself out as being able to make a residential mortgage loan or assist a
12 person in obtaining or applying to obtain a residential mortgage loan.

13 **2.2 Prohibited Acts:** Based on the Factual Allegations set forth in Section I above, Respondent is in
14 apparent violation of RCW 19.146.0201(1), (2), (3), (6), (8), (12) and (14) for directly or indirectly employing a
15 scheme, device or artifice to defraud or mislead borrowers, engaging in an unfair or deceptive practice toward
16 any person, obtaining property by fraud or misrepresentation, failing to make disclosures to loan applicants as
17 required by RCW 19.146.030, making false statements in connection with an investigation conducted by the
18 Department, collecting fees prohibited by RCW 19.146.030, and failing to comply with any provision of RCW
19 19.146.030.

20 **2.3 Requirement to Disclose Residential Mortgage Loan Fees:** Based on the Factual Allegations set
21 forth in Section I above, Respondent is in apparent violation of RCW 19.146.030 for failing to provide
22 borrowers with full written disclosures, containing an itemization and explanation of all fees and costs that the
23 borrowers were required to pay in connection with obtaining a residential mortgage loan, within three days
24 following receipt of a loan application or any moneys from the borrowers.

1 **2.4 Prohibited Fees:** Based on the Factual Allegations set forth in Section I above, Respondent is in
2 apparent violation of RCW 19.146.030 for charging fees inuring to the benefit of a mortgage broker in excess of
3 the fees disclosed on the initial written disclosures where the fees were reasonably foreseeable by the mortgage
4 broker at the time the initial written disclosures were provided to borrowers, and/or where the mortgage broker
5 failed to provide the borrowers, no less than three business days prior to the signing of the loan closing
6 documents, a clear written explanation of the fees and the reason for charging fees exceeding those which were
7 previously disclosed.

8 **2.5 Requirement to Maintain Funds From Borrower for Payment of Third-Party Providers in Trust:**

9 Based on the Factual Allegations set forth in Section I above, Respondent is in apparent violation of RCW
10 19.146.050, WAC 208-660-08010, WAC 208-660-08015, WAC 208-660-08020, WAC 208-660-08025, WAC
11 208-660-08030 and WAC 208-660-08032 for failing to deposit funds received from a borrower or on behalf of
12 a borrower for payment of third-party provider services in a trust account of a federally insured financial
13 institution located in this state, prior to the end of the third business day following receipt of such monies, and
14 for commingling operating funds with trust account funds.

15 **2.6 Requirement to Obtain and Maintain License and Branch License:** Based on the Factual
16 Allegations set forth in Section I above, Respondent is in apparent violation of RCW 19.146.200 and RCW
17 19.146.265 for engaging in the business of a mortgage broker without first obtaining and maintaining a license
18 under the Act, and for engaging in the business of a mortgage broker from a fixed physical location without first
19 obtaining and maintaining a branch license for that fixed physical location under the Act.

20 **2.7 Requirement to Provide Information on License Application:** Based on the Factual Allegations set
21 forth in Section I above, Respondent has failed to meet the requirements of RCW 19.146.205(1), RCW
22 19.146.210(1), WAC 208-660-030(1) and WAC 208-660-040 by failing to provide an accurate and complete
23 written license application in the form prescribed by the Director.

24 **2.8 Requirement to Provide Surety Bond or Approved Alternative:** Based on the Factual Allegations
25 set forth in Section I above, Respondent has failed to meet the requirements of RCW 19.146.205(4), RCW

1 19.146.210(1), and WAC 208-660-080 by failing to file a surety bond or approved alternative meeting the
2 requirements of the Director.

3 **2.9 Requirement to Demonstrate Financial Responsibility, Character and General Fitness:** Based on
4 the Factual Allegations set forth in Section I above, Respondent has failed to meet the requirements of RCW
5 19.146.210(1) and WAC 208-660-160(5) for failing to demonstrate financial responsibility, character, and
6 general fitness such as to command the confidence of the community and to warrant a belief that the business
7 will be operated honestly, fairly, and efficiently within the purposes of the Mortgage Broker Practices Act.

8 **2.10 Authority to Deny Application for License:** Pursuant to RCW 19.146.210(2), the Director shall not
9 issue a license to an applicant if the conditions of RCW 19.146.210(1) have not been met by the applicant.
10 Pursuant to RCW 19.146.220(1), RCW 19.146.220(2)(a) and WAC 208-660-160, the Director shall deny a
11 license application for any violation of RCW 19.146.050 or RCW 19.146.0201(1) through (9), or for aiding and
12 abetting an unlicensed person to practice in violation of the Mortgage Broker Practices Act.

13 **2.11 Authority to Impose Fine:** Pursuant to RCW 19.146.220(2)(c)(i) and (ii) and WAC 208-660-165, the
14 Director may impose fines on a licensee, employee or loan originator of the licensee, or other person subject to
15 the Act for any violation of RCW 19.146.0201(1) through (9) or (12), RCW 19.146.030 through RCW
16 19.146.080, RCW 19.146.200, RCW 19.146.265, or for failing to comply with a directive of the director.

17 **2.12 Authority to Order Restitution:** Pursuant to RCW 19.146.220(d)(ii), the Director may issue orders
18 directing a licensee, its employee or loan originator, or other person subject to the Act to pay restitution to an
19 injured borrower.

20 **2.13 Authority to Prohibit from the Industry:** Pursuant to RCW 19.146.220(2)(e)(i) and (iv), the Director
21 may prohibit from participation in the conduct of the affairs of a licensed mortgage broker, any officer,
22 principal, employee, or loan originator of any licensed mortgage broker or any person subject to licensing under
23 the Act for any violation of RCW 19.146.0201(1) through (9) or (12), RCW 19.146.030 through RCW
24 19.146.080, RCW 19.146.200, RCW 19.146.265, or for failing to comply with a directive of the director.

2.14 **Authority to Collect Investigation Fee:** Pursuant to RCW 19.146.210(2), RCW 19.146.228(3), WAC 208-660-060(1) and WAC 208-660-061, upon completion of processing and reviewing an application for a license, the Department will prepare a billing, regardless of whether a license has been issued, calculated at the rate of \$37.16 per hour that each staff person devoted to processing and reviewing the application. The application deposit will be applied against this bill. Any amount left owing to the Department will be billed to and paid promptly by the applicant.

III. NOTICE OF INTENTION TO ENTER ORDER

Respondent's violations of the provisions of chapter 19.146 RCW and chapter 208-660 WAC, as set forth in the above Factual Allegations and Grounds for Entry of Order, constitute a basis for the entry of an Order under RCW 19.146.210, RCW 19.146.220, RCW 19.146.221 and RCW 19.146.223. Therefore, it is the Director's intention to ORDER that:

- 3.1 Respondent Rosemary D. Murphy, dba Miracle Mortgage and Finance's application for a Mortgage Broker License be denied; and
- 3.2 Respondent Rosemary D. Murphy pay a fine of \$31,800.00 for:
 - a. Violating RCW 19.146.0201(1), (2), and (3), calculated at \$100 per day for 30 days; and
 - b. Violating RCW 19.146.0201(6) and RCW 19.146.030, calculated at \$100 per day for 30 days; and
 - c. Violating RCW 19.146.0201(8), calculated at \$75 per day for 30 days; and
 - d. Violating RCW 19.146.0201(12) and RCW 19.146.030, calculated at \$100 per day for 30 days; and
 - e. Violating RCW 19.146.050, calculated at \$100 per day for 30 days; and
 - f. Violating RCW 19.146.200 and RCW 19.146.265, calculated at \$100 per day for 153 days; and
 - g. Failing to comply with a directive of the director, calculated at \$75 per day for 30 days; and
- 3.3 Respondent Rosemary D. Murphy pay restitution to all borrowers injured by Respondent's illegal practices of originating residential mortgage loans without a license, and/or failing to provide proper residential mortgage loan disclosures to borrowers, and/or charging borrowers fees in excess of those initially disclosed, including at least \$13,540.00 restitution to the injured borrowers listed in paragraph 1.5 for loan fees paid directly to Respondent; and
- 3.4 Respondent Rosemary D. Murphy pay restitution to all borrowers injured by Respondent's conversion of funds from borrowers held in trust, including at least \$800.00 restitution to the injured borrowers listed in paragraph 1.7; and
- 3.5 Respondent Rosemary D. Murphy pay restitution to all borrowers injured by Respondent's unfair and deceptive practice of charging interest at usurious rates on residential mortgage loans personally funded by Respondent while Respondent was attempting to originate other residential mortgage loans

1 for the borrowers, including at least \$13,454.00 restitution to the injured borrowers listed in paragraph
2 1.9; and

3 3.6 Respondent Rosemary D. Murphy be prohibited from participation in the conduct of the affairs of any
4 licensed mortgage broker, in any manner, for a period of ten (10) years; and

5 3.7 Respondent Rosemary D. Murphy, dba Miracle Mortgage and Finance pay an investigation fee in the
6 amount of \$6,503.00, calculated at \$37.16 per hour for the one hundred eighty-five (185) staff hours
7 devoted to the investigation, less the ten (10) staff hours paid out of Respondent's application deposit.

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STATEMENT OF CHARGES

C-04-123-04-SC01

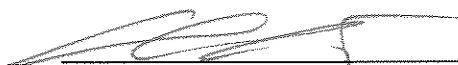
Rosemary D. Murphy, dba Miracle Mortgage & Finance

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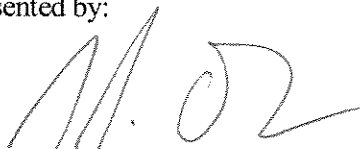
IV. AUTHORITY AND PROCEDURE

This Statement of Charges and Notice of Intention to Enter an Order to Deny License Application, Impose Fine, Order Restitution, Prohibit from Industry, and Collect Investigation Fee is entered pursuant to the provisions of RCW 19.146.220, RCW 19.146.221, RCW 19.146.223 and RCW 19.146.230, and is subject to the provisions of chapter 34.05 RCW (The Administrative Procedure Act). Respondent may make a written request for a hearing as set forth in the NOTICE OF OPPORTUNITY TO DEFEND AND OPPORTUNITY FOR HEARING accompanying this Statement of Charges and Notice of Intention to Enter an Order to Deny License Application, Impose Fine, Order Restitution, Prohibit from Industry, and Collect Investigation Fee.

Dated this 22nd day of September, 2005.


CHUCK CROSS
Director
Division of Consumer Services
Department of Financial Institutions

Presented by:


Mark T. Olson
Financial Examiner

